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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/507,542

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Bernd Wilms

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27367

7590

07/22/2008

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EXAMINER

HERNANDEZ, MICHAEL

ART UNIT

PAPER NUMBER

3612

MAIL DATE

DELIVERY MODE

07/22/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/507,542

**Applicant(s)**

WILMS ET AL.

**Examiner**

MIKE HERNANDEZ

**Art Unit**

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-13 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_

### DETAILED ACTION

Claims 1-13 and 17 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant's election with traverse of claims 14-16, and 18-20 in the reply filed on 4/16/07 is acknowledged. The traversal is on the ground(s) that the roof structure is similar. This is not found persuasive because a sunroof as in the present elected species does not comprise a cassette for lowering into the rear of the vehicle.

The requirement is still deemed proper and is therefore made FINAL.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 14, 15, 16, 18, 19, and 20 are rejected** under 35 U.S.C. 102(b) as being unpatentable over German Pat NO DE 44 04 618 to Fussnegger, et al.

Regarding claims 14 and 18, Fussnegger, et al. discloses (Fig 5-8) a vehicle having a body including at least a fixed roof and having a roof assembly for opening an opening 13 in said roof, comprising a plurality of closure elements 32a-e, said closure elements are at least movable between a closed position for closing the roof opening, and an open, rearwardly displaced position substantially below the fixed roof, wherein the roof assembly further comprises at least one common longitudinal guide track 33 extending at least along the roof opening, said closure elements being guided by said

longitudinal guide track by means of slide shoes 68,69, said guide track including storage tracks 37a-e opening into the guide track from below in order to accommodate the slides of the closure elements so as to stack the closure elements one above the other in their open position below the fixed roof. Fussnegger, et al. further discloses the closure elements have side sections, the side sections of two adjacent closure elements being in sliding engagement with each other when these adjacent closure elements are in a stacked position.

As to claims 15 and 19, Fussnegger, et al. discloses the closure elements have a front 69 and rear 68 slide shoes, a front portion of the longitudinal guide track extending at a higher level than a rear portion thereof, the rear portion of the longitudinal guide track having an upper side branch 38 to accommodate the rear slide shoe of the rear closure in the closed position of the roof assembly, while all other slide shoes are in the higher front portion of the guide track. It is an obvious expedient to shape the slide shoes differently from the front to the rear of the roof sections.

As to claims 16 and 20, Fussnegger, et al. discloses one front closure element is operatively connected to a drive and wherein the closure elements are connected to each other through disconnectable connecting members, which are constructed such that they disconnect the closure elements before they are stacked in the open position, and they connect the closure elements again when they are returned to the closed position, wherein the connecting members are adapted such that they only act when there is exerted a pulling force on the closure elements, while the closure elements are

provided with separate pushing surfaces acting to push a preceding closure element when a pushing force is exerted on the closure element.

### ***Response to Arguments***

Applicant's arguments filed 4/23/2008 have been fully considered but they are not persuasive. Applicant argues that the side sections of Fussnegger et al. are not in sliding engagement when the closure elements are in the closed position; however it is clear from the figures of Fussnegger et al. alone that in order for the invention to work as intended, the side sections *must* be in sliding engagement when in the stacked configuration. Each side section is biased into engagement with the next closure element so that the forward or rearward engaging portion becomes engaged with the next forward or rearward engaging portion. Fig 7 of Fussnegger et al. shows the top portion of the closure elements 32b, c, and d in sliding engagement with the bottom portions of closure elements 32c, d, and e, respectively at an intermediate portion (of the side sections) of each of said closure elements. For example in Fig 7, the line that constitutes the top of closure element 32b (shown as numeral 63 for closure element 32a) is collinear with the line that constitutes the bottom (35b for closure element 32b in Fig 8) and therefore inherently implies a sliding engagement.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MIKE HERNANDEZ whose telephone number is (571)272-2354. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Dennis H. Pedder/

Primary Examiner, Art Unit 3612

/MIKE HERNANDEZ/

Examiner, Art Unit 3612